

Security Information

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# OGC Has Reviewed

5 December 1952

25X1A MEMORANDUM: Deputy Director (Administration)

SUBJECT: [REDACTED] - Transportation Expenses

REFERENCE: Memorandum of 29 October 1952 to DD/A from Chief, International Organizations Division, with enclosures from

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1. The referenced memorandum relates to a claim by [REDACTED] a Contract Agent, for payment for the cost of first-class steamship travel from New York to [REDACTED] in the summer of 1950. Payment on this claim has been denied on the ground that [REDACTED] did not actually expend funds for the trip in question. It has been requested that the claim be allowed under the authority of Section [REDACTED] of the Confidential Funds Regulations.

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2. It appears that during 1949-50, prior to signing his contract with the Agency, [REDACTED] had engaged in certain travel agency work as a result of which, in addition to other compensation, he was awarded the choice of a prepaid trip to Europe, first-class, or two weeks vacation in Europe, all expenses paid. In June 1950, while negotiating his contract with this Agency, [REDACTED] states he was promised by a supervising agency official that if he used the prepaid trip for getting to Europe in furtherance of the terms of his contract, that he would be reimbursed for it. On the other hand, it has been reported by an agency official who was then acting in a supervisory capacity, that [REDACTED] had expressed a desire to take his wife with him to Europe; that he was advised that her travel could not be paid by this Agency; that it was suggested to him that he pay his own way to Europe, seeking reimbursement from the Government, and permitting his wife to use the prepaid trip to Europe; and that this suggestion appeared to meet with [REDACTED] approval. However, he used the prepaid trip for himself and now seeks reimbursement therefor.

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3. The pertinent part of the contract provides:

"You will be reimbursed by CIA for your necessary travel expenses from the United States to your designated post or posts of duty overseas and return in accordance with applicable CIA regulations. You will be required to account in full for all sums expended under this paragraph...." (Emphasis supplied)

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4. It is clear from the foregoing that [REDACTED] had a definite asset in the form of a prepaid trip to Europe which, as he states, he had earned "with nine months of really hard work" and which, by some unexplained inadvertence or misunderstanding he used for himself in reaching Europe instead of using it for his wife's transportation as had been suggested to him. Informal advice received from the Finance Division confirms [REDACTED] statement that the reimbursement was disallowed on the theory that Mr. [REDACTED] had not actually paid out any money on his own behalf. It may be assumed therefore, that the Finance Division does not question [REDACTED] statement that he earned the trip in question.

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5. It is the opinion of this office that payment in this case may be justified without resort to [REDACTED] on the authority of a decision of the Comptroller of the Treasury dated November 22, 1901, reported at 8 Comp. Dec 328 and which through the years has remained unmodified by the General Accounting office. The question as stated therein was

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"...what allowance, if any, should be made for reimbursement for expenses of transportation procured from the railroad companies without a payment in money?"

The question arose due to the fact that an employee of the Department of Agriculture who was also an employee of the National Geographic Magazine purchased from the Geographic, travel rights on railroads paid to the Geographic in return for advertising and used the travel rights in connection with official travel in behalf of the Agriculture Department. He then sought reimbursement from the government. The Comptroller pointed out in his decision that the Supreme Court of the United States has distinctly recognized the principal that transportation for which an equivalent has been rendered cannot be regarded as free transportation even when issued in that form by the railroad company. Further that it may be paid for otherwise than in money and that a pass purporting on its face to be a free pass may nevertheless be given for consideration. See Railroad Company v. Lockwood, 17 Wall. 357, 359 and Railroad Company v. Stevens, 95 U.S. 655. Reimbursement was allowed on the ground that the employee had paid and accounted to the National Geographic Magazine (on whose account the transportation was issued) for the full commercial value of the tickets issued by the railroad company on account of advertising in said magazine.

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6. At the conclusion of his decision the Comptroller stated:

"...that in all cases where a claim for reimbursement, if made for any other transportation than purchased in the ordinary way from the transportation companies, a full statement of all the circumstances under which it was procured and the manner in which it was paid for and the amount paid should accompany the voucher therefor. In no case can actual reimbursement be made for any sum in excess of the amount that has been paid in cash or its equivalent, or for a sum in excess of the commercial rates over the shortest usually travelled route". (Emphasis supplied)

It is apparent therefore that reimbursement for travel may be made where payment to the carrier has been made in a medium other than money including the case under consideration wherein payment was made in the form of an equivalent of money, i.e. in services rendered.

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7. Based on the foregoing considerations, it is the opinion of this office as heretofore stated that this claim may properly be paid without resort to [REDACTED] of the Confidential Funds Regulations, and in an amount ascertained to be due under governing regulations.

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[REDACTED]

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